

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2014-153-S

IN RE:)	
Arch Enterprises, LLC d/b/a)	
McDonalds,)	
)	
Complainant/Petitioner)	PETITION FOR REHEARING
)	AND RECONSIDERATION
)	OF ARCH ENTERPRISES, LLC
)	
v.)	
)	
Palmetto Wastewater Reclamation,)	
LLC d/b/a Alpine Utilities,)	
)	
Defendant/Respondent.)	
)	
)	

The Complainant/Petitioner Arch Enterprises, LLC hereby submits this Petition for Rehearing and Reconsideration (“Petition”) for rehearing and reconsideration of the South Carolina Public Service Commission’s Directive bearing Order No. 2014-400, issued on May 1, 2014, and the Standing Hearing Officer Directive, issued on May 6, 2014. Copies of both Orders are attached.

This Petition is filed pursuant to S.C. Code Ann. § 58-5-330 and S.C. Code Ann. Regs. 103-825(4)(a) and 103-854 and the following:

1. Pursuant to S.C. Code Ann. § 58-5-210, it is the responsibility of the South Carolina Public Service Commission (“Commission”) to

[S]upervise and regulate the rates and service of every public utility in this State, together with the power, after hearing, to ascertain and fix such just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by every public utility in this State.

2. On April 8, 2014, Arch Enterprises, LLC filed a Complaint with the Commission. The basis for the Complaint was that Arch Enterprises, LLC had received a Notice of Intent to Disconnect Sewer Services from Palmetto Utilities showing a past balance due of \$59,450.40. In its Complaint, Arch Enterprises, LLC disputed the past due amount.

3. Alpine filed a Motion to Dismiss on an Expedited Basis on April 14, 2014.

4. The following appeared as agenda item number 8 on the agenda for the May 1, 2014 Commission meeting:

DOCKET NO. 2014-153-S - Arch Enterprises, LLC d/b/a McDonalds, Complainant/Petitioner v. Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities, Defendant/Respondent - Discuss with the Commission the Motion to Dismiss on an Expedited Basis Filed on Behalf of Palmetto Wastewater Reclamation, d/b/a Alpine Utilities.

5. This agenda item purports on its face only to provide a basis for a discussion of the matter with the Commission.

6. Arch Enterprises, LLC received no notice that anything related to its Complaint would be heard and decided by the Commission on May 1, 2014. The agenda item description gives no indication that the Commission would take dispositive action on Alpine's Motion or Arch Enterprises, LLC's Complaint.

7. Following the May 1, 2014 meeting, the Commission issued the Directive bearing Order No. 2014-400. This Directive found that to grant Arch Enterprises, LLC's request would amount to prohibited retroactive rate making.

8. The Directive further found that because the Notice of Intent to Disconnect Sewer Services was sent by the wrong utility that the notice was of no force and effect.

9. On May 1, 2014, Alpine sent a Sewer Disconnection Notice to Arch Enterprises, LLC

10. To clarify the effect of the Directive, a Standing Officer issued a subsequent Order on May 6, 2014, stating that the hearing on Arch Enterprises, LLC's Complaint, which had been scheduled for July 9, 2014, was cancelled as a result of the Commission's holding in Directive bearing Order No. 2014-400.

11. Thus, the Commission effectively dismissed Arch Enterprises, LLC's Complaint without notice to the Complainant and without any opportunity for the Complainant to be heard on the matter.

12. The Commission's Rules of Practice and Procedure are found at S.C. Code Regs. Ann. § 103-800 *et seq.* The Rules of Practice and Procedure set forth the manner in which Complaints and Motions are to be considered.

13. Section 103-824 sets forth the procedure for filing a Complaint and provides that a Complainant may request a proceeding.

14. Section 103-829 governs the filing and consideration of Motions. Section 103-829(B) provides:

The Commission, in its discretion and **upon due notice to all parties of record, may entertain oral argument and response** on prefiled motions in advance of the scheduled hearing in the proceeding to which the motions pertain. **Otherwise, such argument and response** shall be made at the commencement of the hearing. The presiding officer may make a ruling upon such motion at the completion of oral argument, at the conclusion of the hearing, or in the written order making disposition of the subject matter of the proceeding.

15. Section 103-829(B) specifically provides that the Commission will provide notice to all parties of record when a Motion is to be decided. Section 103-829(B) gives the Commission the discretion to hear oral argument and response on the Motion prior to or at the commencement of the hearing of the underlying proceeding. Section 103-829(B) provides no

authority for the Commission to decide a Motion without notice and without an opportunity for all parties of record to present oral argument and response.

16. Thus, the Commission erred in hearing and granting of Alpine's Motion to Dismiss on an Expedited Basis without providing notice or an opportunity to be heard to Arch Enterprises, LLC

17. The Commission further erred in concluding that granting Arch Enterprises, LLC's request for a reduction in previously charged rates would amount to prohibited, retroactive rate making.

CONCLUSION

Based upon the foregoing, the Commission's decision to dismiss the Complaint of Arch Enterprises, LLC is affected by an error of law; is clearly erroneous; and is arbitrary or capricious. Accordingly, the Complainant/Petitioner requests that the Commission rehear and reconsider this matter to correct these errors.

CALLISON TIGHE & ROBINSON,

s/ Kathleen McDaniel
D. Reece Williams, III (SCBAR#6120)
Kathleen M. McDaniel, Esq. (SCBAR#74826)
1812 Lincoln St., Ste. 100
PO Box 1390
Columbia SC 29202
Tel. (803) 404-6900
Fax. (803) 404-6901
reecewilliams@callisontighe.com
kathleenmcdaniel@callisontighe.com

ATTORNEYS FOR COMPLAINANT/ PETITIONER ARCH ENTERPRISES, LLC

May 14, 2014
Columbia, South Carolina

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2014-153-S

IN RE:)
Arch Enterprises, LLC d/b/a)
McDonalds,)
)
Complainant/Petitioner)
)
v.)
)
Palmetto Wastewater Reclamation,)
LLC d/b/a Alpine Utilities,)
)
Defendant/Respondent.)
)
_____)

CERTIFICATE OF SERVICE

I, Kathleen McDaniel, of Callison Tighe & Robinson, LLC, Attorneys for the Complainant/Petitioner, do hereby certify that I have served a copy of the **PETITION FOR REHEARING AND/OR RECONSIDERATION OF ARCH ENTERPRISES, LLC** in this matter on the following parties by having a copy hand-delivered, on May 14, 2014 to the following:

Jeff Nelson, Esquire
S. C. Office of Regulatory Staff
1401 Main Street
Suite 900
Columbia, SC 29201

John M. S. Hoefer, Esquire
Willoughby & Hoefer, P.A.
30 Richland Street
Columbia, SC 29201

s/Kathleen McDaniel

May 14, 2014
Columbia, South Carolina